

AMENDMENT UNDER 37 C.F.R. §1.116
USSN: 09/783,096

REMARKS

Claims 1-23, all the claims pending in the application, stand rejected. Applicants have canceled claims 7, 14 and 21 without prejudice or disclaimer. Claims 1-6, 8-13, 15-20 and 22 have been amended.

As preliminary matter, Applicant notes that the Examiner has made this rejection final. However, as subsequently discussed in greater detail, **the Examiner has newly rejected claims 7, 14 and 21 under 35 U.S.C. § 112, second paragraph as being indefinite.** These are the original claims in the application and this is a new rejection. Accordingly, Applicant submits that the Examiner's rejection should not have been made final in accordance with the provisions of MPEP 706.07(a) which states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by Applicants amendment of the claims nor based on information submitted in an Information Disclosure Statement..."

Since there was neither an amendment no an IDS that necessitated the rejection, Applicant respectfully requests that the Office Action dated November 1, 2002 be deemed non-final, that the final rejection be deemed premature under MPEP 706.07(c) and that it be withdrawn in accordance with MPEP 706.07(d).

Claim Rejections - 35 U.S.C. § 112

Claims 7, 14 and 21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is traversed as being moot, in view of the cancellation of these claims without prejudice or disclaimer.

Claim Rejections - 35 U.S.C. § 102

Claims 1-3, 5, 6, 8-10, 12, 13, 15-17, 19 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fongellaz et al (5,186,460). This rejection is traversed.

The Invention

The invention concerns a computer-controlled post race game having an arrangement as illustrated schematically in Fig. 4. Specifically, a main controller 61 is coupled to storage devices for a race horse (63) and player (64), and interfaces with a station controller 62 so that users at a plurality of stations 20 can participate in the horse race game. A key feature of the game system is that the racing field comprises a plurality of tracks concurrently existing on the board, whether electronically displayed or physically arranged as illustrated in Fig. 1 as concentric tracks 12 and 13. A player participates via a horse (running model) having an “inherent ability parameter” which varies in accordance with a given environment. The horse runs on the basis of the current ability parameter and the particular field region that may be applicable to a race.

Independent claims 8 and 15 similarly are directed to a game system having a racing field with a plurality of field regions, one or more running models having a variable inherent ability parameter and running on any of a plurality of field regions concurrently presented on a board.

In the previous amendment, Applicant distinguished the patent to Fongellaz because it envisioned the single track generated on an electronic display. Applicant asserted that the limitations in the claim to a plurality of racing fields that are concurrently existing on the board distinguish the invention from Fongellaz.

At page 6, paragraph 10 of the Office Action, the Examiner notes that the argument against Fongeallaz focuses on multiple tracks with different characteristics, while the claim is directed to a plurality of “**field regions**”. The Examiner points to Fongeallaz’s Fig. 13 for showing a plurality of “field regions,” where each square is considered a “region”. The Examiner admits that the disclosure is enabling for a dirt track and a turf track on the same board, but asserts that this is not the subject of the claim.

Applicant has now amended the claims to substitute the word “tracks” for “field regions”, thereby removing Fongeallaz as an anticipatory reference.

The Examiner comments that Filiczowski (5,106,098), which was cited of record in an earlier Office Action, “clearly teaches the concept described in Applicant’s argument in Fig. 1b”. However, this is not a computer-based game but a manual board game involving cards. The concept of concurrently presenting plural tracks in an electronic game, such as those used in gambling casino’s, involves totally different considerations related to the structure, operation and environment of the game. One skilled in the art would not look to a simple board game for a teaching of how to implement an electronic game, as claimed. In short, the advance developed by the Applicant in displaying or presenting two tracks concurrently on a electronic or computer-driven game so that additional options and exciting opportunities exist for the game players is not obvious from viewing the single track in Fongeallaz and a simple board in Filiczowski. In this regard, Applicant has further amended the claims to recite that the invention is directed to a “computerized” game system.

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Claims 4, 11, 18 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fongeallaz as applied to claims 1, 8 or 15. This rejection is traversed on the basis of the arguments and amendments made to the independent claims. Applicant again asserts that Fongeallaz alone does not provide the basis for obviousness of the claimed invention since the display of two tracks concurrently and the modification of the running model based upon current ability parameters in accordance with a respective track is nowhere taught in the prior art.

Claims 7, 14, 21 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fongeallaz as applied to claims 1, 8, 15 or 22, and further in view of Ikeda et al (6,371,854). Applicant respectfully submits that Ikeda does not remedy the deficiencies of the prior art patent to Fongeallaz. The Examiner has not cited the reference for such purpose.

Further, the Applicant submits that the modification of Fongeallaz to include two tracks concurrently, whether or not considering the simply board game of Filiczowski, would involve a matter of hindsight. There is no reason given by the Examiner for modifying Fongeallaz to increase the options and activity in the Fongeallaz game. Many technical limitations would preclude such modification, including size of the screen, processing ability, etc. Further, there are many operational reasons why such change would not be obvious including the absence of any clear identification of a player's interest in multiple choices and additional complex game structures. In the absence of such teaching or suggestion, there is no motivation for making the modification, other than hindsight. In short, there is absolutely no motivation to add two concurrent tracks to Fongeallaz.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

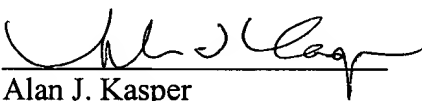
SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE



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PATENT TRADEMARK OFFICE


Alan J. Kasper
Registration No. 25,426

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APPENDIX
VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 7, 14 and 21 are canceled.

The claims are amended as follows:

1. (Twice Amended) A computerized game system, comprising:

a racing field formed on a predetermined board; and

a running model, to which an inherent ability parameter varying in accordance with a given environment is assigned, caused to run a race on the racing field,

wherein the racing field comprises a plurality of [field regions] tracks concurrently existing on said board in which the running model runs based on a current ability parameter, in accordance with the respective [field regions] tracks.

2. (Amended) The game system of claim 1, wherein one of the [field regions] tracks is a region maintained so that the running model performs steady running in which a current ability parameter of the running model is maximized, and the other one of the [field regions] tracks is a region formed so as to obstruct the steady running.

3. (Amended) The game system of claim 1, wherein one of the [field regions] tracks is a flat region maintained not to obstruct the running of the running model, and the other one of the [field regions] tracks is a region in which obstacles are arranged on part of a track on which the running model runs.

4. (Amended) The game system of claim 1, wherein one of the [field regions] tracks is a region simulating a turf course, and the other one of the [field regions] tracks is a region simulating a dirt course in which soil is exposed.

5. (Twice Amended) The game system of claim 1, wherein a passageway is formed between the plurality of concurrently existing [field regions] tracks so that the running model can enter and exit, and the same running model can run on races on the plurality of [field regions] tracks.

6. (Amended) The game system of claim 5, wherein the plurality of [field regions] tracks form concentric racing courses.

8. (Twice Amended) A computerized game system, comprising:

a racing field formed on a predetermined board; and

a running model, to which an inherent ability parameter varying in accordance with a given environment is assigned, caused to run a race on the racing field,

wherein the racing field comprises a plurality of [field regions] tracks concurrently existing on said board which provide the running model with variable factors of the ability

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parameter, the variable factors differing in accordance with running of the running model in the respective [field regions] tracks.

9. (Amended) The game system of claim 8, wherein one of the [field regions] tracks is a region maintained so that the running model performs steady running in which a current ability parameter of the running model is maximized, and the other one of the [field regions] tracks is a region formed so as to obstruct the steady running.

10. (Amended) The game system of claim 8, wherein one of the [field regions] tracks is a flat region maintained not to obstruct the running of the running model, and the other one of the [field regions] tracks is a region in which obstacles are arranged on part of a track on which the running model runs.

11. (Amended) The game system of claim 8, wherein one of the [field regions] tracks is a region simulating a turf course, and the other one of the [field regions] tracks is a region simulating a dirt course in which soil is exposed.

12. (Amended) The game system of claim 8, wherein a passageway is formed between the plurality of [field regions] tracks so that the running model can enter and exit, and the same running model can run on races on the plurality of [field regions] tracks.

13. (Amended) The game system of claim 12, wherein the plurality of [field regions] tracks form concentric racing courses.

15. (Twice Amended) A computerized game system, comprising:
a racing field formed on a predetermined board; and
a plurality of running models, to each of which an inherent ability parameter varying in accordance with a given environment is assigned, caused to run a race on the racing field,
wherein the racing field comprises a plurality of [field regions] tracks concurrently presented on said board in which each of the running models runs based on a current ability parameter in accordance with the respective [field regions] tracks, whereby each of the running models is provided with variable factors of the ability parameter, the variable factors differing in accordance with running of each of the running models.

16. (Amended) The game system of claim 15, wherein one of the [field regions] tracks is a region maintained so that the running model performs steady running in which a current ability parameter of the running model is maximized, and the other one of the [field regions] tracks is a region formed so as to obstruct the steady running.

17. (Amended) The game system of claim 15, wherein one of the [field regions] tracks is a flat region maintained not to obstruct the running of the running model, and the other one of the [field regions] tracks is a region in which obstacles are arranged on part of a track on which the running model runs.

18. (Amended) The game system of claim 15, wherein one of the [field regions] tracks is a region simulating a turf course, and the other one of the [field regions] tracks is a region simulating a dirt course in which soil is exposed.

19. (Amended) The game system of claim 15, wherein a passageway is formed between the plurality of [field regions] tracks so that the running model can enter and exit, and the same running model can run on races on the plurality of [field regions] tracks.

20. (Amended) The game system of claim 19, wherein the plurality of [field regions] tracks form concentric racing courses.

22. (Amended) A computerized game system for holding a race by causing a running image, to which an inherent ability parameter whose value varies in accordance with a given environment is assigned, to run a race on an electronically-formed racing field image, wherein

the racing field comprises a plurality of [field regions] tracks in which the result of processing the current ability parameter using processes differing in accordance with the respective

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[regions] tracks is reflected, the [field regions] tracks providing the running image with variable factors of the ability parameter, the variable factors differing in accordance with running of the running image, and wherein

one of the [field regions] tracks is a region simulating a turf course, the other one of the [field regions] tracks is a region simulating a dirt course in which soil is exposed, in which the condition of the turf in the [region] track simulating the turf course and the condition of the soil in the [region] track simulating the dirt course can be adjusted.